

## Department of State

## § 41.104

Visa Services may waive the personal appearance before a consular officer of an individual applicant or a class of applicants if the Deputy Assistant Secretary finds that the waiver of personal appearance is warranted in the national interest or because of unusual circumstances and that national security concerns do not require an interview.

(d) *Unusual circumstances.* As used in this section, unusual circumstances shall include, but not be limited to, an emergency or unusual hardship.

[68 FR 40128, July 7, 2003]

### § 41.103 Filing an application and Form OF-156.

(a) *Filing an application*—(1) *Filing of application on Form OF-156 required unless waived.* The consular officer may waive submission of an application, under paragraph (a)(3) of this section, for certain aliens for whom personal appearance has been waived under § 41.102. Except for persons for whom such waivers have been granted, every alien seeking a nonimmigrant visa must make application therefor on Form OF-156, Nonimmigrant Visa Application, unless a prior Form OF-156 is readily available at the consular office which can be appropriately amended to bring the application up to date.

(2) *Filing of Form OF-156 by alien under 16 or physically incapable.* The application for an alien under 16 years of age or one physically incapable of completing an application may be completed and executed by the alien's parent or guardian, or, if the alien has no parent or guardian, by any person having legal custody of, or a legitimate interest in, the alien.

(3) *Waiver of filing of application.* (i) When personal appearance is waived under § 41.102(a)(2) or (3) the consular officer may also waive the filing of a visa application.

(ii) When personal appearance is waived under § 41.102(a)(7), the consular officer may also waive the filing of a visa application in cases of hardship, emergency, or national interest.

(iii) Even if personal appearance is waived pursuant to any other subparagraph of § 41.102(a), the requirement for filing an application may not be waived.

(b) *Application form*—(1) *Preparation of Form OF-156, Nonimmigrant Visa Application.* (i) The consular officer shall ensure that Form OF-156 is fully and properly completed in accordance with the applicable regulations and instructions.

(ii) If the filing of a visa application is waived by the consular officer, the officer shall prepare a Form OF-156 on behalf of the applicant, using the data available in the passport or other documents which have been submitted.

(2) *Additional information as part of application.* The consular officer may require the submission of additional necessary information or question an alien on any relevant matter whenever the consular officer believes that the information provided in Form OF-156 is inadequate to permit a determination of the alien's eligibility to receive a nonimmigrant visa. Additional statements made by the alien become a part of the visa application. All documents required by the consular officer under the authority of § 41.105(a) are considered papers submitted with the alien's application within the meaning of INA 221(g)(1).

(3) *Signature.* When personal appearance is required, Form OF-156 shall be signed and verified by, or on behalf of, the applicant in the presence of the consular officer. If personal appearance is waived, but the submission of an application form by the alien is not waived, the form shall be signed by the applicant. If the filing of an application form is also waived, the consular officer shall indicate that the application has been waived on the Form OF-156 prepared on behalf of the applicant, as provided in paragraph (b)(1)(ii) of this section. The consular officer, in every instance, shall initial the Form OF-156 over or adjacent to the officer's name and title stamp.

(4) *Registration.* Form OF-156, when duly executed, constitutes the alien's registration record for the purposes of INA 221(b).

[52 FR 42597, Nov. 5, 1987, as amended at 66 FR 38542, July 25, 2001; 67 FR 66046, Oct. 30, 2002]

### § 41.104 Passport requirements.

(a) *Passports defined.* "Passport" as defined in INA 101(a)(30) is not limited